

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LUIS MANUEL VELEZ-MERCADO, : CIVIL ACTION
Petitioner-pro se :
: NO. 16-5082
v. :
: :
MARK GARMAN, *et al.* :
Respondents :
:

O R D E R

AND NOW, this 31st day of May 2017, upon consideration of the pleadings and record herein, and after careful and independent consideration of the *Report and Recommendation* (“R&R”) submitted by United States Magistrate Judge Linda K. Caracappa (“Magistrate Judge Caracappa”), [ECF 11],¹ to which no objections were filed,² it is hereby **ORDERED** that:

1. The *Report and Recommendation* is **APPROVED** and **ADOPTED**.
2. Petitioner’s petition for a writ of *habeas corpus* is **DENIED**.
3. There is no probable cause to issue a certificate of appealability.

The Clerk of Court shall mark this case **CLOSED** for statistical purposes.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO, J.
Judge, United States District Court

¹ The underlying petition for a writ of *habeas corpus* filed by Petitioner Luis Manuel Velez-Mercado (“Petitioner”) pursuant to 28 U.S.C. §2254 was originally assigned to the Honorable James Knoll Gardner. On November 29, 2016, this case was referred to Magistrate Judge Caracappa pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 72.1.IV(c), for an R&R. [ECF 4]. On March 16, 2017, Magistrate Judge Caracappa issued an R&R suggesting that the petition be denied. [ECF 11]. On that same day, Petitioner was sent a copy of the R&R with a Notice advising him that any party had 14 days to file timely objections to the R&R (the “Notice”), [ECF 11-2]. However, the mail was returned as undeliverable. On March 22, 2017, Petitioner sent a letter advising the court of a change of address. [ECF 13]. On March 31, 2017, the R&R and the Notice were remailed to Petitioner’s new address. [ECF 14]. On May 30, 2017, this matter was reassigned to the undersigned. [ECF 15]. As of the date of this Order, Petitioner has not filed any objections to the R&R.

² Because no objections to the R&R have been filed, this Court’s review of the R&R is under the “plain error” standard. *See Facyson v. Barnhart*, 2003 WL 22436274, at *2 (E.D. Pa. May 30, 2003). Under this plain error standard of review, an R&R should only be rejected if the magistrate judge commits an error that was “(1) clear or obvious, (2) affect[ed] substantial rights, and (3) seriously affected the fairness, integrity, or public reputation of judicial proceedings.” *Leyva v. Williams*, 504 F.3d 357, 363 (3d Cir. 2007) (internal quotations and citations omitted). After a thorough consideration and review of the record and the R&R, this Court finds no error was committed and, therefore, adopts the R&R in its entirety.